

**Internal Revenue Service  
Director, Exempt Organizations**

**Department of the Treasury  
P.O. Box 2503 - EP/EO  
Cincinnati, OH 45201**

**Date: MAY 08 2002**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Employer Identification Number:**

**Person to Contact and Identification Number:**

**Contact Telephone Numbers:**

**Phone**

**FAX**

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth in the enclosed Attachment.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. However, we have concluded that you do not qualify under another subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

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If we do not hear from you within the time specified, this will become our final determination.

Sincerely,

*Steven T. Miller*

Steven T. Miller  
Director, Exempt Organizations

Attachment  
Enclosures:

Form 6018 Consent to Proposed Adverse Action (2)  
Publication 892 Exempt Organizations Appeal Procedures for Unagreed Issues

[REDACTED]

Attachment

**FACTS**

You were organized as an unincorporated association on [REDACTED] and the Internal Revenue Service (hereafter Service) received your application for recognition of exemption on [REDACTED]. The following is the detailed narrative description of activities that was submitted in your application:

[REDACTED] will serve as an organization through which [REDACTED] sales associates may enhance their professional skills and knowledge and deal with regional issues and ideas.

This activity will be achieved through regular meetings which will be attended by a [REDACTED] representative from each [REDACTED] office in the region. Activity was initiated [REDACTED]. Meetings will be held at local [REDACTED] offices within the region. Meetings will be conducted by officers and members.

[REDACTED] will serve as an organization through which [REDACTED] agents may sponsor events to support charities approved by [REDACTED]."

Your organizing document titled [REDACTED] By Laws states in Article I, 1) Purpose:

"The purpose of [REDACTED] is:

- A) To promote the selling skills and professionalism of the sales associates.
- B) To work with the Broker/Owner Council in developing, operating and improving [REDACTED] on a local, regional, national and international basis.
- C) To provide a sounding board for new ideas and approach that lead toward the betterment of [REDACTED].
- D) To provide a representative form of government to facilitate the decision making process.
- E) To avoid and eliminate overlap and duplication of efforts among [REDACTED] offices.
- F) To provide a liaison between the Brokers/Owners and Sales Associates.
- G) To facilitate the flow of information throughout [REDACTED].
- H) To assist and augment the efforts of the Brokers/Owners, other [REDACTED] Sales Associates, [REDACTED] regional, national, and international offices and others on promoting the best interests of the public and [REDACTED] industry.
- I) To support any [REDACTED] approved charity."



[REDACTED]

Your membership requirements as stated in Article II of your organizing document are:

"[REDACTED] shall be composed of representatives from each office as outlined in Article I." [REDACTED] is composed of one representative per [REDACTED] agents, or part of, from each active and open office operating under the [REDACTED] name in [REDACTED] area. Each office is entitled to at least one representative per office and the representative must be a [REDACTED]."

### LAW

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of Business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 501(c)(6)-1 of the Income Tax Regulations defines business league as an association of persons having some common business interest, the purpose of which is to promote such common interest. It is an organization of the same general class as a chamber of commerce or board of trade. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

### Application

Revenue Ruling 83-164, 1983-2 CB 95, found that an organization whose members represent diversified businesses that own, rent, or lease computers produced by a single computer manufacturer does not qualify for exemption from federal income tax as a business league under section 501(c)(6) of the Code.

Revenue Ruling 70-80, 1970-1 CB 130 states that a nonprofit trade association of manufacturers whose principal activity is the promotion of its members' products under the association's registered trademark does not qualify for exemption under section 501(c)(6) of the Code.

Since your membership is limited to only [REDACTED], your organization is very similar to the above Revenue Rulings.

The United States Board of Tax Appeals decided in *Washington State Apples, Inc., v. Commissioner*, (46 BTA 64), that the apple growers of the State of Washington, whose object and purpose was to advertise and promote the sale of Washington apples, was exempt as a business league. The organization was formed in response to a decline in the national per capita consumption of apples. No brand names or growers were mentioned in their advertisements; only the varieties of apples grown in Washington were advertised.

*Washington State Apples, Inc., supra*, was approved as exempt because neither the brand names nor the growers were named in the advertising and promotion was for line of business.

[REDACTED]  
[REDACTED]

In *National Muffler Dealers Association, Inc. v. United States*, (440 US 472, Ct. D. 1997, 1979-1 CB 198 (1979)), the U. S. Supreme Court held that an organization of muffler dealers franchised by Midas International Corporation did not qualify for exemption as a business league under Internal Revenue Code section 501(c)(6) because the organization's purpose was too narrow to satisfy the line of business test. It further concluded that that exemption under section 501(c)(6) is not available to aid one group in competition with another within an industry.

In *Better Business Bureau of Washington, D.C., Inc. v. United States*, 326 U.S. 279 (1945), the Court held that the presence of a single non-exempt purpose, if substantial in nature, will preclude exemption regardless of the number or importance of statutorily exempt purposes.

Even though some of your activities may be open to nonmember realtors your primary purpose is the promotion of [REDACTED] as a brand name and [REDACTED] realtors specifically.

### TAXPAYER POSITION

In an undated and unsigned correspondence responding to a [REDACTED] inquiry from the Service you state in part:

...Although the membership of the organization is made up of [REDACTED] sales associates, there are [REDACTED] individual business owners (the sales associates) and [REDACTED] brokers (holding the [REDACTED] franchises) within the [REDACTED] area. As [REDACTED] sales associates, each agent runs his or her own business (usually sole proprietors). Therefore, each sales associates represents competition for each other. There is no restraint of trade issue or elimination of competition. In addition, all activities are open to non members. If a real estate agent who holds their license with a broker other than a [REDACTED] franchise wishes to attend a continuing education seminar, or any other function, he or she may do so. The membership represents a large and diverse group of separately owner and competing businesses and no earning from the organization's activities inure to the benefit of any individual or company.

In another undated and unsigned correspondence that responded to the Service inquiry dated [REDACTED], in which the line of business test was raised, you reiterated your previous statement.

### CONCLUSION

Based on the information submitted, you do not qualify for exemption under Internal Revenue Code section 501(c)(6) as a business league because your activities are not directed towards the improvement of business conditions in one or more lines of business.